

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

BRADY J. YOUNG, husband, and ASHLEY  
K. YOUNG, wife,

Plaintiffs,

v.

ACCESS MORTGAGE, WELLS FARGO  
BANK, WELLS FARGO HOME  
MORTGAGE, CITI MORTGAGE, and  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS,

Defendants.

**MEMORANDUM DECISION and  
REPORT AND RECOMMENDATION  
TO DISMISS THE CASE**

Case No. 2:10-cv-00703-DAK -DN

District Judge Dale A. Kimball

Magistrate Judge David Nuffer

On November 15, 2010, District Judge Dale A. Kimball granted the motion to withdraw filed by Plaintiffs' counsel.<sup>1</sup> In that order, the District Judge ordered Plaintiffs to notify the court within twenty days as to whether they intended to proceed *pro se* or retain new counsel.<sup>2</sup> Plaintiffs failed to respond to the court's order. Subsequently, Judge Kimball referred the matter to Magistrate Judge David Nuffer "to manage the case, receive all motions, hear oral arguments, conduct evidentiary hearings as deemed appropriate, and to submit to the undersigned judge a report and recommendation for the proper resolution of dispositive matters presented."<sup>3</sup> In that order, Judge Kimball warned Plaintiffs that if they continued "to ignore orders of the court, they

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<sup>1</sup> Order Granting Application to Withdraw as Attorney of Record, docket no. 28, filed Nov. 16, 2010.

<sup>2</sup> *Id.*

<sup>3</sup> Order Referring Case to Magistrate Judge, docket no. 28, filed Dec. 17, 2010. *See also* 28 U.S.C. § 636(b)(1)(B).

may face sanctions or a dismissal of their case for failure to prosecute.”<sup>4</sup>

On January 27, 2011, Magistrate Judge Nuffer ordered Plaintiffs to “show cause why this case should not be dismissed for failing to follow court orders to timely inform the court whether they intend to proceed *pro se* or retain new counsel and for failure to prosecute.”<sup>5</sup> Plaintiffs did not respond.

### **Recommendation**

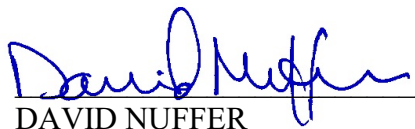
Accordingly, it is recommended that the District Judge dismiss the complaint for failure to comply with the court’s orders and for failure to prosecute.

### **Notice**

Copies of this Report and Recommendation are being mailed to the parties, who are hereby notified that they have fourteen days after being served to serve and file written objections to this Report and Recommendation. The District Judge will make a de novo determination of the specific objections by the parties. The District Judge may accept, reject, or modify this Report and Recommendation in whole or in part. Further, the District Judge may also receive additional evidence on the matter or recommit the matter to the Magistrate Judge with instructions.

DATED this 11<sup>th</sup> day of February, 2011.

BY THE COURT:

  
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DAVID NUFFER  
United States Magistrate Judge

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<sup>4</sup>*Id.*

<sup>5</sup>Order to Show Cause, docket no. 30, filed January 27, 2011.